

Minutes
Catawba County Board of Commissioners
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The Catawba County Board of Commissioners met in regular session on Monday, April 1, 2002, 9:30 a.m., at the 1924 Courthouse, Robert E. Hibbitts Meeting Room, 30 North College Avenue, Newton, North Carolina.

Present were Chairman W. Steve Ikerd, Vice Chair Marie H. Huffman, and Commissioners Katherine W. Barnes and Dan A. Hunsucker.

Absent: Commissioner Barbara G. Beatty.

A quorum was present.

Also present were County Manager/Deputy Clerk J. Thomas Lundy, Deputy County Manager Steven D. Wyatt, Assistant County Manager Mick W. Berry, County Attorney Robert Oren Eades, County Staff Attorney Debra Bechtel, and County Clerk Thelda B. Rhoney.

1. Chairman Ikerd called the meeting to order at 9:30 a.m.
2. Invocation was offered by Commissioner Huffman.
3. Commissioner Huffman made a motion to approve the minutes from the regular session of Monday, March 18, 2002. The motion carried unanimously.
4. Presentations:
 - a. Commissioner Hunsucker made a motion to declare Deputy Ralph Pollard's service weapon and badge as surplus pursuant to North Carolina General Statutes 20-187.2 and present same to him on the occasion of his retirement. The motion carried unanimously.

Major Coy Reid presented Deputy Pollard's service weapon and badge to him on the occasion of his retirement.

Deputy Pollard said he enjoyed working with Catawba County.

b. Proclamations:

1. Commissioner Huffman presented a proclamation for Administrative Professionals Week, April 21-27, 2002, to Jennifer Bass, Hickory Chapter International Association of Administrative Professionals (IAAP) President Elect and Catawba County IAAP members: County Manager's Office - Thelda B. Rhoney, County Clerk; Mental Health Department – Lula H. Camp, Janice D. Cornett, and Kelley S. Keisler, Office Support Specialist; and Brenda W. Teague, Administrative Assistant; and Department of Social Services – Belinda W. Harrison, Office Support Specialist.
2. Commissioner Barnes presented a proclamation for Child Abuse Prevention Month to Cyndy Benson, Program Manager for Child Protective Services and Christina Abbott, Director, Catawba County Child Advocacy Center.
3. Chairman Ikerd presented a proclamation for Litter Sweep Weeks, April 15-28, 2002, to Barry B. Edwards, Utilities and Engineering Director.
4. Commissioner Hunsucker presented a proclamation for Telecommunicators Week, April 9-12, 2002, to R. Alan Pope, Communications Director and Catawba County Telecommunicators.

5. Special Guests:

Chairman Ikerd welcomed Boy Scout Jordan Ethridge who was working on his Citizenship Badge, and candidates Gary Teague and Gerald Kamp, and Hickory Public Schools Superintendent Duane Kirkman.

6. Special guests not listed on agenda:

Reverend Joel Cherry said he attended a County Expo for the Faith Community at Mt. Pleasant United Method Church. He wanted to give special thanks to Commissioner Beatty for organizing the event. He said it was a great opportunity for the citizens to see what Catawba County has to offer its citizens and recommended that the Expo be offered to other areas of the county.

7. Appointments:

Newton Planning Board

Commissioner Hunsucker made a motion to approve the appointment of Kent Elliott, 2045 Picnic Drive, Newton, as recommended by the Newton Board of Aldermen, replacing Marvin "Kent" Holcomb who resigned. Mr. Elliott's first, three-year term will begin April 1, 2002, and end March 31, 2005. The motion carried unanimously.

8. Departmental Reports:

a. Finance:

1. Bid #02-1010 – 26,000 lb GVWR Truck Chassis with Heavy Duty All Steel Crane Body – (Service Truck).

Debbie Anderson, Purchasing Agent said this project is completely funded with landfill revenues; no tax dollars fund the operation of the landfill. A new service truck is needed to service sixteen pieces of heavy equipment, two farm tractors, and four dump trucks that cannot be brought into the shop for repairs or service. Landfill staff will also use this truck to service grinding equipment and loaders at off site locations such as special projects and grinding sites. This project was budgeted in account #525-350200-984000 in the amount of \$90,000. The specifications requested a bid for a 2002 model and an alternate bid for a new 2001 model. Parks Chevrolet submitted a bid for a new 2000 truck in addition to the 2002 and 2001 that was specified. Staff recommends the purchase of the 2002 GMC Service Truck with a heavy-duty crane body from Volvo & GMC Truck Center for \$73,591.41. The 2002 model GMC Truck has an improved engine design that produces 22% less Nitrogen Oxides and Hydro Carbon emissions, and this was done to comply with the EPA's new regulations to lower emissions for diesel-powered equipment in 2002. The 2002 model GMC has an improved fuel injection system that will allow for better fuel economy. The Landfill will use this truck for the next ten plus years at current rate; the 2002 GMC will have a higher trade-in value than the 2000 model Chevrolet. The Chevrolet 2000 model service truck has been sitting on the dealer's lot for two years and the frame would have to be shortened by the local dealer to fit the service body we specified. The GMC 2002 model will be built at the factory to fit our application. The bid submitted by Ken Wilson Sterling did not meet our specification. Staff specified a 9,000 lb front axle; their bid was for an 8,000 lb front axle.

The Finance and Personnel Subcommittee recommended that the Board of Commissioners approve bid #02-1010 for a 260,000 lb GVWR Truck Chassis with Heavy Duty All Steel Crane Body – (Service Truck) to Volvo & GMC Truck Center in the amount of \$73,591.41. Other bids: Ken Wilson Sterling Trucks Canton, NC, 2002 M7500 Acterra - \$74,675; Volvo & GMC Truck Center Charlotte, NC, 2002 GMC C7H042 2002 with Alternate Body - \$76,364.41; Parks Chevrolet, Inc. Kernersville, NC, 2002 Chev. - Adkins Body - \$80,373, 2002 Chev. - TS0G Body - \$76,731, 2001 Chev. - Adkins Body - \$78,192; 2001 Chev. TS0G Body - \$74,500, 2000 Chev. Adkins Body - \$76,996, 2000 Chev. TS0G Body - \$73,304; Fontaine Truck Equipment Charlotte, NC, 2002 S650 Ford - \$82,000; and Tarheel Sterling Truck Center Charlotte, NC, 2002 M6500 Acterra - \$82,980.

Commissioner Barnes made a motion to approve bid #02-1010 for a 260,000 lb GVWR Truck Chassis with Heavy Duty All Steel Crane Body – (Service Truck) to Volvo & GMC Truck Center in the amount of \$73,591.41. The motion carried unanimously.

2. County Code Updates – Chapter 230 Purchasing.

Ms. Debbie S. Anderson, Purchasing Agent, said Senate Bill 914 (Senate Law 2001-496) effective January 1, 2002, incorporated changes to the bidding laws for purchasing and construction. Senate Bill 914 increases the formal bid range for purchases from \$50,000 to \$90,000. Since the \$90,000 bid range is high, staff recommends the bid range remain at \$50,000. Senate Bill 914 increases the formal bid range for construction to \$300,000. The following code amendments recommends the \$300,000 bid range, however, it requires three (3) written quotes for construction projects in the \$100,000 to \$300,000 range. Other changes that affect the Purchasing Code are a duplication of some of the same changes in the Architectural Code and the new Minority Guidelines/Outreach Plan: Bidding options for Formal Bids are: Separate-prime; Single-prime; Dual bidding; Construction Manager-At-Risk; and Alternative Contracting Methods. There are reporting requirements to the Secretary of

the Department of Administration for the aforementioned methods. When a construction project exceeds \$300,000, performance and payment bonds are required for each contract that exceeds \$50,000. Minority Participation for Building Construction Projects for both informal and formal projects. The Policy and Goals Subcommittee recommended that the Board of Commissioners approve the following changes made to County Code, Chapter 230 - Purchasing. Senate Bill 914 requires a dispute resolution policy for all participants in a construction project and the policy will be submitted to the Board at a future meeting.

Title 23, C230: Purchasing

BE IT ORDAINED BY THE CATAWBA COUNTY BOARD OF COMMISSIONERS that the Catawba County Code of Ordinances is hereby amended as follows:

§ 230.01 DEFINITIONS.

As used in this chapter, the terms listed below have the meaning as indicated:

ALTERNATIVE CONTRACTING METHOD. Local governments can seek authority to modify bidding requirements for particular projects, specifically design-build projects for building construction.

BID. A quotation specifically given a prospective purchaser upon his request, usually in competition with other vendors.

CONSTRUCTION MANAGEMENT-AT-RISK. Services are provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services and construction administration.

DUAL BIDDING. Bids may be received to erect, construct, alter or repair a building under both the single-prime and separate-prime contracting systems and shall award the contract to the lowest responsible bidder under the single-prime or the lowest responsible bidder under the separate-prime system.

MINORITY BUSINESS. A business in which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.

SEPARATE-PRIME. Bids for building projects are received for each subdivision of work (1) heating, ventilating and air-conditioning; (2) plumbing; (3) electrical and (4) general.

SINGLE-PRIME. Bids for building projects are received from one contractor. The single-prime contractor performs all work or contracts with subcontractors for heating, ventilating and air-conditioning; plumbing; and electrical.

§ 230.09 FORMAL BID AND RFP MONETARY LIMIT.

- (A) Formal procedures must be followed when the purchase requires an estimated expenditure of \$50,000 or more. For construction, repairs and renovation, formal bid procedures must be followed if the project requires an estimated expenditure of ~~\$100,000~~ \$300,000 or more, except where the work is to be done by county personnel (force account) and the total cost of the project, will not exceed \$125,000 (including all direct and indirect cost), or if the labor does not exceed \$50,000. Bidding requirements will still apply to apparatus, supplies, materials or equipment purchased for use on force account projects. Force account labor must be approved by the Board of Commissioners and a record of all cost must be maintained for public inspection. (7-21-97; 09-04-01)
- (B) If the cost for the construction of a building is estimated at ~~\$100,000~~ \$300,000 or more, the county has established a 5% goal for participation by minority contractors in the total value of work for which a contract or contracts are awarded pursuant to G.S. § 143-128. In addition for projects totaling ~~\$100,000~~ \$300,000 or more, separate specifications and contacts must be prepared for the following areas of work: (09-04-01)
 - (1) Heating, ventilating, air conditioning and accessories and/or refrigeration for cold storage (where the cooling load is 15 tons or more of refrigeration);

- (2) Plumbing and gas fittings and accessories;
- (3) Electrical wiring and installations; and
- (4) General work not included in the above listed three areas.

- (C) For building construction or building repair projects \$100,000-\$500,000 \$300,000 and above, bids may be received by using either (1) single-prime, (2) ~~multiple-prime~~ separate-prime, (3) dual bidding, (4) Construction Management-at-Risk contract or (5) alternative contracting methods authorized pursuant to G.S. 143-135.26(9). ~~The statutory rules must be followed for each of these systems. If the contracts are bid under both the single and multiple-prime systems, the award must be made to the lowest responsible bidder or bidders, as provided in the rules for single-prime contracting.~~ (7-21-97; 09-04-01)

Single-Prime. All bidders in a single-prime project shall be required to identify on their bid the contractors they have selected for the subdivisions or branches of work for: (1) Heating, ventilating, and air conditioning; (2) Plumbing; (3) Electrical; and (4) General. The contract shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractors listed in the original bid, except (1) if the listed subcontractor's bid is later determined by the contractor to be nonresponsive or nonresponsive or the listed subcontractor refuses to enter into a contract for the complete performance of bid order or (2) with the approval of the Catawba County Board of Commissioners for good cause shown by the contractor. When a contract is awarded using the single-prime method, Catawba County shall make the dispute resolution process available to subcontractors.

Separate-Prime: Bids shall be accepted for each subdivision of work for which specifications are required to be prepared and bids shall be awarded separately to responsible and reliable persons, firms or corporations regularly engaged in their respective lines of work. Each separate contractor shall be directly liable to Catawba County and to the other separate contractors for the full performance of all duties and obligations due under the terms of the contract. Contracts shall be awarded to the lowest, responsible, responsive bidders, taking into consideration quality, performance, the time specified in the bids for performance of the contract and compliance with G.S. 143-128.2.

Dual bidding: Bids may be received to erect, construct, alter or repair a building under both the single-prime and separate-prime contracting systems and shall award the contract to the lowest responsible, responsive bidder under the single-prime system or to the lowest responsible, responsive bidder under the separate-prime system, taking into consideration quality, performance and compliance with G.S. 143-128.2 and time specified in the bids to perform the contract. In determining the system under which the contract will be awarded to the lowest responsible, responsive bidder, the cost of construction oversight, time for completion, and other factors the County considers appropriate may be considered. The bids received as separate-prime bids shall be received, but not opened, no less than one hour prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor under the separate-prime system.

Construction Management Services: Construction Management Services means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

Construction Management-at-Risk Services: Construction Management-at-Risk Services means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

Construction Manager-at-Risk: The Construction Manager-at-Risk shall contract directly with Catawba County for all construction, shall publicly advertise, and shall prequalify and accept bids from first-tier subcontractors for all construction work. The Construction Manager-at-Risk shall address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by Catawba County. Catawba County shall require the Construction Manager-at-Risk to submit its plan for compliance with G.S. 143-128.2 for approval by the Catawba County Board of Commissioners prior to soliciting bids for the project's first-tier

subcontractors. A Construction Manager-at-Risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. A Construction Manager-at-Risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible bidder will not execute a contract for the bid portion of the work or the subcontractor defaults and a pre-qualified replacement cannot be obtained in a timely manner, and (ii) Catawba County approves of the Construction Manager-at-Risk's performance of the work. All bids shall be opened publicly, and once they are opened are public records. The Construction Manager-at-Risk shall act as the fiduciary of Catawba County in handling and opening bids. The Construction Manager-at-Risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for the performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by Catawba County and advertised as part of the bid solicitation. Catawba County may require the selection of a different first-tier subcontractor for any portion of the work, provided the Construction Manager-at-Risk is compensated for any additional cost incurred. When contracts are awarded using this method, Catawba County shall provide for a dispute resolution procedure as provided in G.S. 143-128(g). The Construction Manager-at-Risk shall provide a performance and payment bond to Catawba County.

Alternative Contracting Method: Local governments can seek authority to modify bidding requirements for particular projects, specifically design-build projects for building construction.

- ~~(D) An area of work may be combined with another when their combined cost is estimated to be less than \$25,000. (09-04-01)~~
- ~~(E) Separate bids must be received for each of the categories of work for which specifications must be prepared, if the "entire cost" of the project exceeds \$500,000. Single-prime bids may be solicited for the project in addition to, but not instead of, multiple-prime contract. (7-21-97)~~
- (F D) When a project exceeds \$300,000, performance and payment bonds are required for each contract that exceeds \$50,000. No bid for construction or repair work valued at \$100,000 \$300,000 or above may be considered or accepted unless at the time of the submittal, it is accompanied by a deposit in the form of cash or certified check, in an amount equal to not less than 5 percent (5%) of the proposal. In lieu of making a cash deposit, the bidder may file a bid bond executed by a corporate surety licensed under the laws of North Carolina. The successful contractor shall be required to submit performance and payment bonds to secure the faithful performance of the terms of said contract and the payment of all sums due for labor and materials. (7-21-97; 09-04-01)

~~The former §230.09 (F) applied to single source items. In accordance with NCGS 143-129, 1997 General Assembly, single source items are exempt from bid procedures when performance or price competition for a product are not available; when a needed product is available from only one source of supply, or when standardization or compatibility is the overriding consideration. Requires governing board actions notwithstanding delegation of authority to award contracts, and requires record of justification for use of the exemption. (7-21-97)~~

- (E) Reporting Requirements: Catawba County staff shall report to the Secretary of the Department of Administration the cost and effectiveness of the method used above. Reports shall include the following information: (1) the method used; (2) the total value of each project; (3) the bid costs and relevant post-bid costs; (4) a detailed listing of all contractors and subcontractors used on the project, including identification of whether the contractor was an "out of state" contractor; and (5) in cases where an out of state contractor was used, the reasons why the contractor was selected. The reports must be filed annually beginning April 1, 2003, and thereafter must be filed in the year in which the project is completed.
- (F) Dispute Resolution for Building Construction Projects: Catawba County shall provide dispute resolution procedures for all building construction or repair projects. The dispute resolution procedures are available to all parties involved in the construction project, including the architect, the construction manager, and the contractors (including all levels of subcontractors), and is available for any issue arising out of the contract or construction process as long as the matter in dispute is \$15,000 or more. See Dispute Resolution Policy.

('77 Code, § 2-189) (Ord. passed 9-16-80; Am. Ord. passed 9-6-88; Am. Ord. passed 6-21-93; 7-21-97; 09-04-01)

Statutory reference: For provisions concerning the authority of the county to lease real property and to employ county personnel under certain circumstances, see G.S. §§ 153A-165 and 143-135.

- (G) Minority Participation for Building Construction Projects (Formal Bids): Contractors, including first-tier subcontractors on construction management at risk projects must identify on their bids the minority businesses they will use on the project and the total dollar value of the bid that will be performed by minority businesses. They must also include an affidavit listing the good faith efforts they have made. If contractors intend to perform all of the work with their own forces, they may submit an affidavit.

After bids are received, the apparent lowest responsible bidder must provide either (1) an affidavit describing the portion of the work to be executed by minority businesses, expressed as a percentage of the total contract amount showing a percentage equal to or more than the applicable goal on the project, or (2) documentation of good faith efforts to meet the goal, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

Within thirty days after a contract is awarded, the successful contractor must list all identified subcontractors that will be used on the project. Failure to provide the affidavit or documentation required to demonstrate good faith efforts is grounds for rejection of a bid.

A subcontractor may not be replaced except (1) when the subcontractor's bid is determined to be nonresponsible or nonresponsive or the subcontractor refuses to enter into a contract for the complete performance of the work or (2) with the approval of Catawba County "for good cause."

When selecting a substitute contractor, the contractor must make and document good faith efforts. See Guidelines and Minority Outreach Plan.

§ 230.11 INFORMAL BIDS.

- (A) Informal bids are distinguished from formal bids by the following:
- (1) The dollar amount to be purchased is less than \$50,000 or construction/repair work for expenditures is less than ~~\$100,000~~ \$300,000. (7-21-97; 09-04-01)
 - (2) Written specifications are not required;
 - (3) Advertising for bids is not necessary;
 - (4) Written, sealed bids need not be submitted;
 - (5) Informal bids received shall remain confidential until the bid is awarded. (7-21-97)
- (B) Informal purchases are accomplished by informal written quotations as well as verbal quotations by telephone or fax from at least two vendors unless it is a sole-source item. If it is a sole-source item, the informal purchase is accomplished by a fair and reasonable acceptance of the product by the department head affected. At least three quotes shall be received whenever possible for purchases of supplies and equipment \$5,000 - \$29,999 ~~\$49,999 for purchases of supplies and equipment.~~ At least (3) three written quotes must be obtained for informal construction bids between \$100,000 and \$300,000. ~~and construction projects less than \$100,000.~~ (7-21-97; 09-04-01)
- (1) The officer that receives such bids is to keep a record of all bids submitted and have these available for public inspection. (G.S. § 143-131) This record shall include company name, contact person, item quoted and date quote received. (7-21-97)
 - (2) When informal bids are received by a department, the quotes received should be listed on the purchase order and a copy forwarded to Purchasing. (7-21-97; 09-04-01)
- (C) For building construction or repair contracts in the informal range (between \$5,000 and \$300,000) minority business contractors shall be solicited. The Facilities Department shall work with the Purchasing Division to ensure that minority outreach is conducted.

This 1st day of April, 2002.

/s/ W. Steve Ikerd, Chairman

County Attorney Robert Oren Eades said the General Statutes state that if an ordinance is to be adopted at the first presentation before the board of commissioners all of the commissioners have to be present and have to vote for the ordinance. He said he understood Commissioner Huffman would absent at the next meeting. The statutes further state if an ordinance has been voted on at one meeting and then anytime within 100 days of its introduction and a majority of the commissioners then present and voting pass the ordinance it then becomes effective. He recommended the commissioners vote on the ordinance and then assuming it passes, place on the next agenda for a second reading and Commissioner Huffman's absence at the next meeting will not be a problem if the other commissioners vote to pass.

Commissioner Huffman made a motion to approve the aforementioned changes to the Code of Ordinances, Chapter 230 Purchasing, on first reading. The motion carried unanimously.

3. Minority-owned, Woman-owned, Disadvantaged-owned Outreach Plan and Guidelines.

Ms. Debbie Anderson, Purchasing Agent, said Senate Bill 914 was ratified by the General Assembly on December 6, 2001 and was effective January 1, 2002. This bill (1) increased bidding thresholds; (2) established new contracting methods; and (3) mandated new requirements for minority contracting, dispute resolution and reporting for building construction. Catawba County already had a goal of 5 percent for minority participation in building construction valued at \$100,000 and above. The County's procedure has been to follow statute requirements by maintaining a list of minority contractors, mailing notices of formal building construction projects to those on the list and advertising in a minority newspaper. Although the County did not meet the goal for the construction of the Social Services Addition bid in May 2000, the minority participation percentage for the construction of the BEH Group Home bid in April 2000 was 8 percent. Senate Bill 914 requires the State to have a verifiable 10 percent goal. A local government that receives State appropriations for a building project or other State grant funds for a building project, pursuant to Senate Bill 914, requires a 10 percent goal. An exception is allowed if a local government had a lower goal prior to December 31, 2001, and can document why the goal is lower. Ms. Frayda Bluestein of the Institute of Government recommended Catawba County maintain its goal of 5percent temporarily until further research can be done to see if a higher goal can be achieved. Staff will be making an extensive effort to identify and inform minority contractors about bidding opportunities with Catawba County as well as the new requirements under the law. Staff intends to comply with the spirit of the law and wants to ensure that every eligible and interested minority owned vendor has an opportunity to do business with Catawba County through the general contractors. Staff will start with the 5 percent goal and review it at least annually and depending upon the number of projects perhaps on a project by project basis. Under the new guidelines of Senate Bill 914, if a contractor does not meet the County's goal the bid award process will be delayed while the contractor proves to the County that all efforts were made to reach minority subcontractors.

Ms. Anderson reviewed the following highlights of the minority requirements in Senate Bill 914: Definition of Minority Businesses which now include African-American, Hispanic, Asian American, American Indian, Female, and Socially and economically disadvantaged. Based on facts, disparity study or other methods of goal setting that takes into account availability and utilization of the construction industry in our market. Public entities must make Good Faith Efforts. Less specific requirements for minority outreach now apply to selection of architect, engineer, surveyor, or Construction Manager-at-Risk and building construction projects in the informal bid range (\$5,000-\$299,999). Prior to solicitation of bids, staff must establish a Minority Business Participation Outreach Plan to identify minority businesses that can perform public building projects, implement outreach efforts to encourage minority business participation, and education, recruitment and interaction between minority and non-minority businesses. Owner must attend scheduled pre-bid conference to discuss and/or ensure Minority Outreach Plan is reviewed. At least 10 days prior to scheduled day of bid opening, owner shall notify minority businesses that have requested notices from public entity for public building construction or repair work. Bid notification should include description of work, date, time and location where bids are to be submitted, public entity's contact person who will be available to answer questions, where bid documents may be reviewed, and any special requirements. Owner shall utilize media outlets to inform potential minority business of bid.

Owner shall use outreach plan to increase minority participation for informal bids. Public entities shall require contractors to make Good Faith Efforts. Bidders must meet at least five of ten Good Faith Effort criteria in order to show compliance with having made a Good Faith Effort on projects bid. Secretary of Administration has until June 30, 2002, to adopt rules establishing a point system for Good Faith Efforts. Contractor Good Faith Efforts include contacting minority businesses known to the contractor or available on State or local government list, at least 10 days before bid date, indicating work to be performed; making plans and specifications available for review at least 10 days prior to bid date; breaking down or combining elements of work into economically feasible units of work to facilitate minority participation; working with minority, trade community, or contractor organizations that provide assistance in recruitment of minority businesses; attending pre-bid meetings scheduled by the Owner; providing assistance in getting required bonding or insurance or providing alternatives; negotiating in good faith with interested minority businesses; providing assistance to qualified minority businesses in need of equipment, loan capital, lines of credit, supplies, or same unit pricing from suppliers; negotiating joint ventures and partnership arrangements with minority businesses to increase opportunities for minority business to participate on public construction projects; and providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. Until a point system is established, bidders must show compliance with at least five of the ten efforts to demonstrate Good Faith Effort. Detailed documentation of good faith efforts made is required if percentage goal is not met. Proposed utilization by contractor equal to or more than goal "gives rise to presumption" that bidder has made the required good faith effort. Documentation and Enforcement: Documentation of efforts by owner and bidders required for each project; failure to provide documentation requires remedial plan; failure to comply can result in Department of Administration overseeing our future projects; failure to comply, and false statements in affidavits or documentation reported to the Attorney General. The Policy and Goals Subcommittee recommended that the Board of Commissioners adopt the following Minority-owned, Woman-owned, Disadvantaged-owned Outreach Plan and Guidelines. The Policy and Goals Subcommittee and staff further requested the current minority percentage goal remain at 5 percent until further research can be conducted.

Catawba County

Minority-owned, Woman-owned, Disadvantaged-owned Outreach Plan and Guidelines

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OUTREACH PLAN AND GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN CATAWBA COUNTY BUILDING CONSTRUCTION CONTRACTS

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, Construction Manager-at-Risk, and alternative contracting methods on Catawba County building construction projects in the amount of \$300,000 or more. The Outreach Plan shall also be applicable to the selection process of architectural, engineering and Construction Manager-at-Risk services.

Catawba County's current goal for minority participation for public building construction is five percent (5%). The overall goal will be reviewed annually or as soon as relevant data is available.

INTENT

The intent of these guidelines is that Catawba County, as awarding authority for construction projects, and the contractors and subcontractors performing the construction contracts awarded, shall cooperate and in good faith do all things, legal, proper and reasonable to achieve the statutory goal of five percent (5%) for participation by minority businesses in each construction project as mandated by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible responsive bid or bids.

DEFINITION

1. Minority – a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central American, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
 - e. Female
2. Minority Business – means a business
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual – means the same as defined in 15 U.S.C. 637. “Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.” “Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.”
4. Public Entity – means State and all public subdivisions and local government units.
5. Owner – Catawba County.
6. Designer – Any person, firm, partnership, or corporation, which has contracted with Catawba County to perform architectural or engineering work.
7. Bidder – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. Contract – A mutually binding legal relationship, or any modification thereof, obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
9. Contractor – Any person, firm, partnership, corporation, association, or joint venture which has contracted with Catawba County to perform construction work or repair.
10. Subcontractor – A firm under contract with the prime contractor or Construction Manager-at-Risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in the subcontract.

Minority and Small Business Participation Outreach Plan

1. Work with minority-focused and small business groups that support MBE and small business inclusion in the solicitation of bids. These groups include the CVCC Small Business Development Center and the Small Business Technology Center.

2. Place more emphasis on the importance of soliciting certified MBE firms and small businesses for subcontracting opportunities at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from MBE firms.
3. Provide detailed information to majority contractors concerning the Guidelines for Recruitment and Selection of Minority Business and Outreach Plan and provide information on G.S. 143-129 by holding meetings with the contractors.
4. Assess the effectiveness of the MBE Program, and identify opportunities to enhance it, by evaluating MBE participation and compliance and reviewing the "good faith efforts" provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and concentrate heavily on targeting certified MBE firms and small businesses that have expressed an interest in Catawba County projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors plan to participate in the project.
6. Build new business relationships through networking and continue networking with other North Carolina cities and counties to find out how their Outreach Program and MBE program is working and sharing "best practices" and ideas to improve the program.
7. Participate in education opportunities throughout the community as they become available and offer training sessions to share the County's Outreach Plan with interested businesses and organizations.
8. Be visible through participation in trade shows and business organizations of interest to MBE firms, majority contractors and small businesses, and provide information to the general public about the MBE Program, and continue outreach efforts to the business community.
9. Enhance the County's web page by including the Outreach Plan and Guidelines, listing good faith efforts, and creating links to MBE resources, and creating awareness of specific subcontracting opportunities.
10. Make available to minority-focused agencies, a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.
11. Continue to maintain a database specifically for MBE firms and majority contractors to ensure those firms wishing to do business with Catawba County have access to up to date information.
12. Advertise upcoming bid opportunities in minority-focused media.
13. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

DESIGNER

Under the single-prime bidding, separate prime bidding, dual bidding, Construction Manager-at-Risk, or alternative contracting method, the designer must do all of the following:

- a. Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
- c. Maintain documentation of any contacts, correspondence, or conversations with minority business firms made in an attempt to meet the goals.
- d. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders' proposal for identification of the minority businesses that will be utilized with corresponding dollar value of the bid and affidavit listing Good Faith Efforts or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) – prior to recommendation of an award.
- e. During the construction phase of the project, review "MBE Documentation for Contract Payment" form with monthly pay applications to the owner and forward copies to the Catawba County.

PRIME CONTRACTOR(S) CONSTRUCTION MANAGER-AT RISK, AND ITS FIRST-TIER SUBCONTACTORS

Under the single-prime bidding, the separate-prime bidding, dual bidding, Construction Manager-at-Risk a alternative contracting methods, contractor(s) must do all of the following:

- a. Attend the scheduled prebid conference.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification must include all of the following:
 - (1) A description of the work for which the subbid is being solicited.
 - (2) The date, time and location where subbids are to be submitted.
 - (3) The name of the individual within the company who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.
- d. During the bidding process, comply with the contractor(s) requirements listed in the proposal for minority participation.
- e. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f) or Intent to Perform Contract With Own Workforce affidavit.
- f. Make documentation showing evidence of implementation of Prime Contractor, Construction Manager-at-Risk and First Tier Subcontractor responsibilities available for review by Catawba County upon request.
- g. Provide one of the following upon being named the apparent low bidder: (1) an affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. This affidavit shall give rise to a presumption that the bidder has made the required good faith effort; or (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. Identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
- i. Submit with each monthly pay requests(s) and final payment(s), "MBE Documentation for Contract Payment" for designer's review.
- j. If at any time during the construction of a project, it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
- k. Make a good faith effort to solicit subbids from minority businesses during the construction of a project if additional subcontracting opportunities become available.

MINORITY BUSINESS RESPONSIBILITIES

Catawba County does not certify minority, disadvantaged or woman-owned businesses. Any business which desires to participate as an MBE will be required to complete and submit for certification, documents required by the agencies listed below. Only those firms holding current certification through at least one of the following agencies will be considered eligible for inclusion in meeting the MBE participation percentage goals:

North Carolina Administration Department Historically Underutilized Business (HUB) certification.

North Carolina Department of Transportation Minority/Disadvantage/Woman-owned Business certification.

Small Business Administration 8(a) certification.

Other governmental agencies on a case-by-case basis.

A copy of these guidelines will be issued with each bid package for Catawba County building construction projects. These guidelines shall apply to all contractors regardless of ownership.

MINIMUM COMPLIANCE REQUIREMENTS

All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and Catawba County for the performance of the contract. Failure to comply with any of these statements, affidavits or intentions, or with the minority business guidelines shall constitute a breach of contract. A finding by the County that any information, submitted either prior to award of the contract or during the performance of the contract, is inaccurate, false or incomplete, shall constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of Catawba County whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, Catawba County will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts. At least five of the following ten good faith efforts must be made in order to meet the Good Faith Efforts requirement:

- (1) Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- (2) Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
- (3) Breaking down or combining elements of work in economically feasible units to facilitate minority participation.
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and those included in the bid documents to provide assistance in recruitment of minority businesses.
- (5) Attending any prebid meetings scheduled by the public owner.
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- (8) Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public building construction or repair project when possible.
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

After a brief discussion, Commissioner Barnes made a motion to adopt the Minority-owned, Woman-owned, Disadvantaged-owned Outreach Plan and Guidelines and approved the current minority percentage goal to remain at 5 percent until further research can be conducted. The motion carried unanimously.

b. Facilities:

1. County Code Updates – Architectural 508.30 – 508.50.

Mr. Michael Talbert, Facilities Director said his changes were identical to what Ms. Anderson reviewed with the purchasing changes and the same changes will be used to update the architectural section of the code to match everything she reviewed. He said under the dual bidding where the county can do single, prime or separate prime and multi prime together the

board will have, under the new law, the authority to select and award the contract to either/or and it will not matter which one will be higher and this is not something the board can currently do. He said construction manager-at-risk are different than anything done before. It is hiring a contractor on the front-end of a project with many restrictions and a series of bidding steps that staff goes through with the board still authorizing the bid of first tier subcontractors and all of that would still come before the board. He said there will be annual reporting requirements to the Secretary of the Department of Administration which identify the cost of the project and effectiveness of the bid method used, why selected, total value, total bids, detailing of all contractors and subcontractors and identification if contractor was out of state. He said a dispute resolution policy will be presented at a future meeting. The Policy and Goals Subcommittee recommended that the Board approve the amendments.

Commissioner Barnes said the new statutes affects the cost of doing business with all local governments. It will require a lot more paperwork for our staff as well as anyone doing business with the county. She said we all have a year or more of learning as we move forward.

BE IT ORDAINED BY THE CATAWBA COUNTY BOARD OF COMMISSIONERS that the Catawba County Code of Ordinances is hereby amended as follows:

**CHAPTER 508: ARCHITECTURAL, ENGINEERING, AND SURVEYING,
AND CONSTRUCTION MANAGEMENT-AT-RISK PROCEDURES FOR
CONSTRUCTION OF SCHOOLS AND COUNTY BUILDINGS (Ord. Amd. 09-04-01)**

Section

***School Construction —
Architectural Procedures***

- 508.01 Purpose
- 508.02 Architectural fees
- 508.03 Architectural contract
- 508.04 Architectural procedures
- 508.05 Contract documents' time schedule
- 508.06 Schematic plans
- 508.07 Design development drawings
- 508.08 Working drawings
- 508.09 Bids
- 508.10 Construction contracts
- 508.11 Progress schedule
- 508.12 Preconstruction conference
- 508.13 Construction phase
- 508.14 Payments
- 508.15 Inspections

***Architectural, Engineering, and Surveying,
and Construction Management-at-Risk Procedures***

- 508.30 Purpose
- 508.31 Architectural, Engineering, and Surveying fees, and Construction Management-at-Risk fees (09-04-01)
- 508.32 Architectural, Engineering, and Surveying contract (09-04-01)
- 508.33 Architectural, Engineering and Surveying, and Construction Management-at-Risk procedures (09-04-01)
- 508.34 Contract documents' time schedule
- 508.35 Schematic plans
- 508.36 Design development drawings
- 508.37 Working drawings
- 508.38 Prebid Conference
- 508.38 ~~9~~ Bids
- 508.39 ~~40~~ Construction contracts
- 508.40 ~~1~~ Progress schedule

508.41	<u>2</u>	Preconstruction conference
508.42	<u>3</u>	Construction phase
508.43	<u>4</u>	Payments
508.44	<u>5</u>	Inspections
508.45	<u>6</u>	Contingencies and change orders
508.46	<u>7</u>	Project Completion and Warranty (Ord. Amd. 09-04-01)
508.48		<u>Construction Management-at-Risk</u>
508.49		<u>Reporting Requirements</u>
508.50		<u>Dispute Resolution</u>

§ 508.30 PURPOSE.

(A) To clarify general procedures for agencies to follow in working with their respective boards located in the county on construction projects. Certain prerequisite steps shall be taken as set forth in this subchapter. These do not apply to Catawba Memorial Hospital, Valley Medical Center, Catawba Valley Community College, nor the three public school systems in the county. (09-04-01)

(B) The county will announce all the requirements for architectural, ~~and~~ engineering, ~~and~~ surveying and Construction Management-at-Risk services, to select firms qualified to provide such services on the basis of demonstrated competency and qualifications for the type of professional services required, without regard to fee, other than unit price information. (09-04-01)

Selection of a firm shall include the use of good faith efforts to notify minority firms of the opportunity to submit qualifications for consideration.

(C) The Director of Facilities is designated as project manager for all County building construction projects, and the procedures set forth in this chapter shall be used to coordinate the efforts of all parties involved in any such project. The Director of Utilities and Engineering shall be designated as project manager for all County construction projects involving solid waste, wastewater, sewer, and potable water facilities. Any proposed changes in the estimate, as a result of bids or otherwise, shall be reported by the Director of Facilities or the Director of Utilities and Engineering, as appropriate, who shall present his recommendation to the Board of Commissioners prior to the advertising of bids. When compiled and approved by user agencies, all projects must conform to the Catawba County Design and Construction Specifications. (1997-98 Budget Ordinance adopted 62-97).('77 Code, § 541) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; Am. Ord. passed of 4-17-89; 7-21-97; 09-04-01)

(D) Plans and specifications must be prepared by a registered architect or engineer for (1) new construction or repairs involving major structural or foundation changes when the expenditure is \$135000 or more, or (2) repairs not involving structural or foundation changes when the expenditure is \$300,000 or more or (3) work affecting life safety systems when the expenditure is \$100,000 or more. A life safety system is a system that involves the safety and welfare of building occupants, such as fire alarm and sprinkler systems.

(E) A certificate of compliance with the building code must be obtained for projects that are not required to be designed by an architect or engineer. A certificate of compliance is not required for any project that does not alter life safety systems and has a projected cost of less than \$100,000.

(F) Minority Participation for Building Construction Projects (Formal Bids): Contractors, including first-tier subcontractors on Construction Management-at-Risk projects must identify on their bids the minority businesses they will use on the project and the total dollar value of the bid that will be performed by minority businesses. Contractors must also include an affidavit listing the good faith efforts they have made. If contractors intend to perform all of the work with their own forces, they may submit an affidavit with an explanation.

(G) After bids are received, the apparent lowest responsible bidder must provide either (1) an affidavit describing the portion of the work to be executed by minority businesses, expressed as a percentage of the total contract amount showing a percentage equal to or more than the applicable goal on the project, or (2) documentation of good faith efforts to meet the goal, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

- (H) Within thirty days after a contract is awarded, the successful contractor must list all identified subcontractors that will be used on the project. Failure to provide the affidavit or documentation required to demonstrate good faith efforts is grounds for rejection of a bid.
- (I) A subcontractor may not be replaced except (1) when the subcontractor's bid is determined to be nonresponsive or nonresponsive or the subcontractor refuses to enter into a contract for the complete performance of the work or (2) with the approval of Catawba County "for good cause."
- (J) When selecting a substitute contractor, the contractor must make and document good faith efforts. See Minority-Owned, Woman-Owned, and Disadvantaged-Owned Outreach Plan and Guidelines.

§ 508.31 ARCHITECTURAL, ENGINEERING, OR SURVEYING FEES, AND CONSTRUCTION MANAGEMENT AT RISK FEES.

- (A) Architectural, Engineering, or Surveying or Construction Management-at-Risk fees. The fee shall be negotiated by the Director of Facilities or the Director of Utilities and Engineering with the selected architectural, engineering or surveying firm based on a reasonable and fair fee with the best qualified firm. The Director of Facilities or the Director of Utilities and Engineering will recommend to the Board a fee consistent with current practices. If a contract cannot be negotiated with the highest ranked firm, negotiation with said firm shall be terminated and new negotiations initiated with the next highest ranked firm. ('77 Code, § 5-42) (Ord. passed 7-9-79; Am. Ord. 6-16-81; Am. Ord. passed 4-17-89; 7-21-97; 09-04-01)
- (B) Exemption from architectural, engineering and surveying fees. The county will exempt all projects from the provisions of §508.31(A) where an estimated professional fee is an amount less than \$30,000 or where special circumstances would dictate it in the best interest of the county. Exceptions for professional fees ~~less than \$30,000 and above up to \$75,000~~ can be approved only by the County Manager, at the request of the Director of Facilities or the Director of Utilities and Engineering. The Board of Commissioners shall approve any professional fee of \$75,000 or more and above. ('77 Code, § 5-42.1) (Am. Ord. passed 4-17-89; 09-04-01)

The Directors shall make any such request for exception in writing, the County's Manager's response shall be in writing and any relevant documentation shall be retained in the project file. (09-04-01)

(Am. Ord. passed 09-04-01)

§ 508.32 ARCHITECTURAL, ENGINEERING OR SURVEYING CONTRACT.

Prior to commencement of services on any project, the architect, engineer or surveyor must execute a mutually acceptable contract with the appropriate Director for those services. The construction budget for a project shall be certified by the Director of Facilities or the Director of Utilities and Engineering who shall provide the architects or engineers/surveyors with a copy thereof. Funds appropriated for a particular project must be used exclusively for that project. It is the architect's, engineer's or surveyor's responsibility to keep a project within budget. The work bid must reflect the architect's or engineer's opinion about what can be done within said budget. Where questions arise as to the amount of work which can be accomplished within the budget, an agreement must be reached with the Director of Facilities or the Director of Utilities and Engineering concerning acceptable alternatives, if any. Alternatives that ~~can't~~ cannot be completed within the project budget, or are beyond the scope of the original project, shall be discussed with the Board of Commissioners.

('77 Code, § 5-43) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.33 ARCHITECTURAL, ENGINEERING, OR SURVEYING, AND CONSTRUCTION MANAGEMENT-AT-RISK PROCEDURES.

Upon execution of an agreement, every architect, engineer, ~~or~~ surveyor, and construction management-at-risk will be furnished with a copy of this code which shall be used in the performance of commissioned services. Any preliminary questions or concerns which the architect, engineer or surveyor might have must be resolved with the appropriate Director prior to commencement of services on any project. ('77 Code, § 5-44) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.34 CONTRACT DOCUMENTS' TIME SCHEDULE.

- (A) Architects, engineers or surveyors must furnish the county a realistic time schedule for their work as soon as the scope of the project has been determined. This is to be done in writing to the Director of Facilities or

Director of Utilities and Engineering with a copy to the County Manager. It is imperative that this schedule be adhered to during preparation of all drawings and documents. (7-21-97; 09-04-01)

- (B) The architect or engineer must furnish the Director of Facilities or Director of Utilities and Engineering and affected department official with drawings as set forth in the contract and as indicated elsewhere in this code. (7-21-97; 09-04-01)
- (C) After assimilating all appropriate information and documentation for the proposed project, the architect, engineer or surveyor shall meet with the appropriate Director and affected department official to finalize the plans for the project. (09-04-01)

('77 Code, § 5-45) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.35 SCHEMATIC PLANS.

Schematic plans shall ~~then~~ be prepared and furnished in triplicate to the Director of Facilities or Director of Utilities and Engineering for review. The architect or engineer will ~~then~~ be notified when ~~this the~~ review is complete and a meeting will be arranged by the Director, ~~the~~ . The meeting shall include all persons involved in the project. The Director will give written authorization to the architect or engineer to proceed with design development drawings within budgeted funds. The Board of Commissioners shall review schematics for all major building projects.

('77 Code, § 5-46) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.36 DESIGN DEVELOPMENT DRAWINGS.

- (A) Design development drawings may consist of floor plans, elevations, cross sections indicating typical structural systems, ceiling heights and other pertinent information. Mechanical system types must be described along with general finishes of the interior and exterior of any building. (09-04-01)
- (B) During the design development stage, the architect or engineer must furnish a written cost estimate for the project. If, in the architect's or engineer's opinion, budgeted funds are not sufficient to accomplish all work specified, a written report must be furnished to the Director, who in his/her exclusive discretion shall determine whether and how to modify the project or terminate same. (09-04-01)
- (C) After proper approval by the Director of Facilities or Director of Utilities and Engineering and the agency officials, the design and development drawings are presented to the Board of Commissioners. Under no condition is any architect or engineer to proceed into working drawings until approval has been given by the Board of Commissioners. The Director of Facilities or Director of Utilities and Engineering will provide written notification of Board of Commissioner authorization. ~~instruct the architect or engineer, in writing, when he is authorized to proceed into working drawings.~~ (09-04-01)

('77 Code, § 5-47) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.37 WORKING DRAWINGS.

- (A) Upon receipt of written approval to proceed, the architect, engineer or surveyor shall prepare working drawings which must include (i) a firm time schedule within which work must be completed and (ii) a projected bid date. (7-21-97; 09-04-01)
- (B) Upon completion of all plans and specifications, the architect or engineer will submit complete sets thereof to the Director of Facilities or Director of Utilities and Engineering, the Department of Insurance, and other applicable agencies for final review. ~~Submission to the agency officials is required for approval before bids are received. Any prerequisite Agency approval must be received by the Director prior to the letting of any bids on the project.~~ (09-04-01)

('77 Code, § 5-48) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.38 PREBID CONFERENCE

For building construction projects, the Catawba County staff and the Architect, Engineer or Construction Manager-at-Risk shall conduct a pre-bid conference to explain the project and minority business requirements to prospective bidders.

§ ~~508.38~~ 508.39 BIDS.

The architect, engineer or surveyor must submit a detailed synopsis of all bid responses, to the Director. The Director will present the bid recommendation to and the Board of Commissioners, who ~~shall~~ have sole and exclusive authority to award contracts.

('77 Code, § 5-49) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ ~~508.39~~ 508.40 CONSTRUCTION CONTRACTS.

- (A) Upon notification from the Board of Commissioners, the architect, engineer or surveyor shall present a contract, which has been approved by the Director, to the successful bidder. For execution, an original of a fully executed contract, which must include all required insurance endorsements, shall be given to the Director prior to commencement of work under any such contract. (7-21-97; 09-04-01)
- (B) The contracts must be reviewed by ~~a Staff~~ an Attorney for the County, approved by the Board of Commissioners, and signed by the Director of Finance and the County Manager or his/her designee. The Director of Facilities or Director of Utilities and Engineering will return the signed contracts to the architect or engineer for distribution to the contractors.

('77 Code, § 5-40) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ ~~508.40~~ 508.41 PROGRESS SCHEDULE.

- (A) Immediately after execution and delivery of the contract, but and before the first partial payment is made, the contractor shall deliver to the architect or engineer and the Director of Facilities or Director of Utilities and Engineering an estimated construction progress schedule in a form satisfactory to the architect or engineer and the Director. It will show the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract and the anticipated amount of each monthly payment that will become due the contractor in accordance with the progress schedule. The contractor shall also furnish the following: (09-04-01)

- (1) A detailed estimate giving a complete breakdown of the contract price; and (09-04-01)
- (2) Periodic itemized invoices for work done for the purpose of receiving payment thereof. (09-04-01)

('77 Code, § 5-51) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97 ; 09-04-01)

§ ~~508.41~~ 508.42 PRECONSTRUCTION CONFERENCE.

The architect or engineer will arrange a mandatory preconstruction conference of all contractors as soon as possible after the bids have been approved. It is important that the architect or engineer, contractors, job superintendents, and the Directors of Facilities and Utilities and Engineering, attend this conference so that all parties can discuss any peculiarities of the project.

('77 Code, § 5-52) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ ~~508.42~~ 508.43 CONSTRUCTION PHASE.

During construction the architect or engineer will prepare and file, at minimum, monthly field inspection reports with the Director of Facilities or Director of Utilities and Engineering, along with monthly payment requests from the contractors when applicable.

('77 Code, § 5-53) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ ~~508.43~~ 508.44 PAYMENTS.

- (A) When applicable, the county shall make progress payments to a contractor on the basis of ~~a~~ duly certified and approved invoices for work performed during the preceding calendar month. However, to insure the proper performance of the contract, the county shall retain 10 percent (10%) of the amount of each invoice until completion and acceptance of all work covered by the contract. The contractor shall have its invoice approved by the architect or engineer and submit same to the Director of Facilities or Director of Utilities and Engineering not later than two days prior to the end of each month. Such invoices will be reviewed by the

Director and, if approved, placed in line for payment to the contractor by the fifth day of the following month. The Director will maintain records by project indicating contract prices and budgeted amounts. All change orders must be processed following the procedure as indicated in § 508.55. (7-21-97; 09-04-01)

- (B) In preparing invoices, material delivered to the construction site, together with preparation work done, shall be taken into consideration.
- (C) The contractor(s) shall submit with each monthly pay request(s) and final payment(s), "Minority Business Enterprise (MBE) Documentation for Contract Payment" form, for the architect's or engineer's review.
- (D) The architect or engineer shall review "MBE Documentation for Contract Payment" found in the Minority Guidelines and Outreach Plan for compliance with minority business utilization commitments. The architect or engineer shall submit documentation for contract payment form with monthly pay applications and copies to Catawba County.

('77 Code, § 5-54) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.44 508.45 INSPECTIONS.

- (A) At the substantial completion stage of the work on the project the architect or engineer will be expected to schedule a semifinal inspection, during which time he/she will prepare a punch list of incomplete items, or items which have not been done to his/her satisfaction. The Director of Facilities or Director of Utilities and Engineering and the agency officials should be notified of the time and date of this inspection so that their representatives can be present. After all items have been corrected in accordance with the punch lists provided to the contractors by the architect or engineer, notification shall be given to the Director that the project has been completed. At this time, a final inspection will be held with the agency officials, Director of Facilities or Director of Utilities and Engineering, as well as any other interested officials. (7-21-97; 09-04-01)
- (B) After formal acceptance of the completed project by the Director of Facilities or Director of Utilities and Engineering, the architect and engineers involved in the project shall furnish the Director with a certificate stating that the project has been completed in accordance with the plans and specifications. This statement, along with final statements and certificates from all contractors, including lien waivers and warranties, must be submitted before final payment is made and the project closed. The Director of Facilities and Director of Utilities and Engineering shall review final statements to ensure compliance with the project's budget.

('77 Code, § 5-55) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; 7-21-97; 09-04-01)

§ 508.45 508.46 CONTINGENCIES AND CHANGE ORDERS.

All change orders shall be prepared by the architect or engineer and approved by the Director of Facilities or Director of Utilities and Engineering and the County Manager prior to any such work being done. Change orders shall be approved by the Department Head only if sufficient funds are available within the project budget. (09-04-01)

('77 Code, § 5-56) (Ord. passed 7-9-79; Am. Ord. passed 6-16-81; Am. Ord. passed 9-20-83; 7-21-97; 09-04-01)

§ 508.46 508.47 PROJECT COMPLETION AND WARRANTY

All work shall be warranted for no less than one year. All manufacturing and material warranties shall be submitted to the Director of Facilities or Director of Utilities and Engineering prior to semi-final inspection. All wastewater, sewer, potable water and building design as-built drawings shall be submitted to the Director of Facilities or the Director of Utilities and Engineering within 120 days following project completion. (09-04-01)

(Am. Ord. passed 09-04-01)

§ 508.47 508.48 CONSTRUCTION MANAGEMENT-AT-RISK

- (A) "Construction Management Services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services and construction administration.
- (B) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, and (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

- (C) "Construction Manager-at-Risk" means a person, corporation, or entity that provides Construction Management-at-Risk services.
- (D) "First-tier subcontractor" means a subcontractor who contracts directly with the Construction Manager-at-Risk.
- (E) The Construction Manager-at-Risk shall be selected in accordance with Article 3D of G.S. 143. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer.
- (F) The Construction Manager-at-Risk shall contract directly with Catawba County for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by Catawba County and the Construction Manager-at-Risk and must address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by Catawba County. Catawba County shall require the Construction Manager-at-Risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A Construction Manager-at-Risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. A Construction Manager-at-Risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) Catawba County approves of the Construction Manager-at-Risk's performance of the work. All bids shall be opened publicly, and once they are opened, are public records as defined in Chapter 132 of the North Carolina General Statutes. The Construction Manager-at-Risk shall act as the fiduciary of Catawba County in handling and opening bids. The Construction Manager-at-Risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration, quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by Catawba County and advertised as part of the bid solicitation. Catawba County may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the Construction Manager-at-Risk is compensated for any additional cost incurred.
- (G) When contracts are awarded pursuant to this section, Catawba County shall provide for a dispute resolution procedure as provided in G.S. 143-128(g). See Dispute Resolution Policy.
- (H) The Construction Manager-at-Risk shall provide a performance and payment bond to Catawba County in accordance with the provisions of Article 3 of Chapter 44A of the North Carolina General Statutes.
- (I) The Facilities Director shall report to the Secretary of Administration all Construction Management-at-Risk contracts; the report must include the following information:
 - (a) A detailed explanation of the reason why the particular Construction Manager-at-Risk was selected.
 - (b) The terms of the contract with the Construction Manager-at-Risk.
 - (c) A list of all other firms considered but not selected as the Construction Manager-at-Risk and the amount of their proposed fees for services.
 - (d) A report on the form of bidding utilized by the Construction Manager-at-Risk on the project.

§ 508.49 REPORTING REQUIREMENTS

Catawba County staff shall report to the Secretary of the Department of Administration the cost and effectiveness of the method used above. Reports shall include the following information: (1) the method used; (2) the total value of each project; (3) the bid costs and relevant post-bid costs; (4) a detailed listing of all contractors and subcontractors used on the project including identification of whether the contractor was an "out of state" contractor; and (5) in cases where an out of state contractor was used, the reasons why the contractor was selected. The reports must be filed annually beginning April 1, 2003, and thereafter must be filed in the year in which the project is completed.

§ 508.50 DISPUTE RESOLUTION

Dispute resolution procedures are available for all building construction and repair projects. The dispute resolution procedures are available to all parties involved in the construction project, including the architect, the construction manager and the contractors (including all levels of subcontractors), and it must be available for any issue arising out of the contract or construction process so long as the matter in dispute is \$15,000 or more. See Catawba County's Dispute Resolution Policy.

County Attorney Eades said the same voting procedure will be require as the aforementioned purchasing code amendments.

Commissioner Barnes made a motion to approve amendments to Sections 508.30 – 508.50 of the Catawba County Code of Ordinances on first reading. The motion carried unanimously.

9. Attorneys' Report. None.

10. Manager's Report.

a. County Manager J. Thomas Lundy explained updates with new technology to the 1924 Courthouse, Robert E. Hibbitts Meeting Room. He said the Board has had funds in the budget for the past three years for improvements to the courthouse and staff worked with the Historical Association. There is a screen so the board and the audience can see a presentation. Laptops can now be used for PowerPoint presentations, and there is the ability to use GIS technology for zoning and subdivision maps.

b. County Manager J. Thomas Lundy gave a PowerPoint Presentation on Resource Cities Visit to Tirana.

Mr. Lundy said the International City/County Management Association (ICMA), in cooperation with the United States Agency for International Development (USAID), pairs US local governments with local governments in developing and transitional countries around the world. US cities, counties or associations are partnered with counterparts to provide technical assistance and improve professional management, support participatory government, support economic development, promote sound financial management, and improve delivery of governmental services.

The program began in 1997 and today more than forty partnerships have been sponsored between US cities and counties and local governments in developing countries across Eastern Europe, Southern Africa, Asia and Latin America. USAID funds the cost of international travel, accommodations and related expenses.

The County's departmental staff reviewed the ICMA International Resource Cities Program last year and decided that it would like to participate and lend its expertise to developing countries where there is a good technical match. Catawba County is known for its best practices, sound financial management and delivery of service and the department heads believed we could assist other communities.

At its February 4th meeting, the Board of Commissioners adopted Resolution 2002-02 supporting Catawba County's participation in the ICMA Resource Cities Program and the partnership with Tirana, Albania. Over an 18 to 24 month period, Catawba County will provide technical assistance to Tirana. A total of 4-5 visits by Catawba County staff will be made to Tirana and Tirana staff will make a total of 3 visits to Catawba County. All travel, accommodations, and related expenses are borne by the United States Government through USAID.

Based on the diagnostic, which was completed by the Director of the International Resource Cities Program at ICMA, the County Manager, Director of Utilities and Engineering and Director of Finance were the team which visited Tirana February 24th through March 2nd, 2002. The week was busy but productive. They departed Sunday, February 24th, and after three flights totaling approximately 11 hours, they arrived in Tirana on Monday afternoon. After getting settled in their hotel, they had a meeting to review the agenda for the week.

Tuesday morning the City of Tirana made a presentation on its history, its needs and its staff. Mr. Lundy responded with a PowerPoint Presentation, describing Catawba County's location, services offered, size of budget, workforce, etc. Particular emphasis was given to projects in Utilities and Engineering and Finance since these were among the areas identified in the diagnostic where Tirana might need technical assistance. Later in the day, they met individually with members of the Finance

and Budget Department, followed by meeting with members of the Urban Planning Department. At the close of the day, they met with the USAID contact to ensure that they were clear on USAID's commitment to the project and their desire that we emerge at the end of the week with three to four areas of technical assistance, as opposed to long term planning projects which could not be completed in the 18 to 24-month time period.

Wednesday they were given a tour of the city's infrastructure projects. They saw where people had illegally built homes and businesses in city parks, onto sidewalks and public streets. This happened after the communists left power in 1991, but during a period of time where there was a corrupt regime in power. The city is in the process of tearing down the illegal structures and clearing the property. This is a massive project and the city is diverting a lot of operational money to these improvements.

They met with the President of the 55-member municipal council as well as the Executive Director of the Council, followed by a meeting with the head of the Albanian Municipal League. In the afternoon they met for the second time with the Finance Department to firm up possible projects. Finally, they toured the city landfill.

Thursday they had an expansive meeting with the Mayor. He took them for a tour of construction and improvements being made to City Hall and then they spent over an hour in his office talking about what he was trying to do to reclaim the public parts of the city and instill pride in the city as they moved more toward democracy. After their meeting, they reviewed the city's financial system, met with the Tax Collector and viewed their tax collection process. Albania has a cash economy so everything is paid in cash—payroll, taxes, etc.

On Friday, the Mayor and Mr. Lundy signed the official Memorandum of Understanding before a full array of television, radio and newsprint reporters. The US Ambassador and USAID officials were present for the signing. The four areas we have agreed to provide technical assistance align nicely with Catawba County's expertise. They are:

- Improve the tax collection process, especially for individual homeowners.
- Develop a process to cost out services. This will allow them to insure that fees for services are correct; to establish fees where they do not presently have them; and to insure that if they competitively bid work in the private sector, they are able to gauge whether they are getting a good price for services.
- Help establish building codes and a process for enforcing good construction. Currently the city inspects foundations and distances between buildings, but Albania does not have a standard building code. Further, if the city finds problems in the construction of buildings, they must turn those concerns over to a State Building Police, which does not do a good job dealing with the deficiencies.
- Develop a process to cost out the infrastructure required to develop business parks as part of the city's urban planning and renewal process.

The next step in the process is for three representatives from the City of Tirana to visit Catawba County in the next two to three months. They are waiting for the Mayor to designate which staff members will come.

The Mayor and his staff are energetic about instituting democratic principles for the city. The Mayor has assembled a young staff which is eager to change things and improve the quality of life. At the same time, they do not have years of experience in their respective fields, so our technical assistance will be important. Additionally, they have diverted a great deal of operational money to demolishing illegal buildings and trying to clean up the city, and this also puts pressure on their ability to provide services.

Mr. Lundy said he, Barry, and Rodney all felt extremely proud that areas where Tirana needs help are areas where the employees of Catawba County and the Board of Commissioners have developed programs of excellence. Catawba County is well known for its financial and budget management, for its building inspections, and its solid waste management. Mr. Lundy said he looks forward to assisting Tirana over the next 18 to 24 months.

11. Other items of business. None.
12. Adjournment.

April 1, 2002, MB#48

At 10:30 a.m., there being no further business to come before the Board, Commissioner Huffman made a motion to adjourn. The motion carried unanimously.

W. Steve Ikerd, Chairman
Catawba County Board of Commissioners

Thelda B. Rhoney
County Clerk